

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Maritime Telecommunications Network, Inc.	)	File Nos.
	)	
Application for Special Temporary Authority	)	SES-STA-20000128-00108
	)	SES-STA-20000817-01448
Request for Special Temporary Authority	)	
to Operate Earth Stations Communicating with	)	SES-STA-19990120-02064
Satellites of New Skies Satellite, N.V.	)	
	)	
Applications for Fixed Earth Station Licenses	)	SES-LIC-19980911-01272 <i>et al.</i>
	)	SES-AMD-19981204-01992 <i>et al.</i>
	)	

**ORDER**

Adopted: September 28, 2000

Released: September 29, 2000

By the Chief, International Bureau:

**I. INTRODUCTION**

1. By this Order, we grant a limited extension of Special Temporary Authority (STA) to Maritime Telecommunications Network, Inc. (MTN) to continue to operate earth stations on six U.S. Navy vessels on a non-harmful interference basis for 180 days from the release date of this Order. We also expand the scope of the STA to permit MTN to communicate with two satellites operated by New Skies Satellite, N.V. (New Skies), with conditions, because the Commission determined in a previous Order that communications with New Skies satellites are in the public interest. We will not, however, extend the STA for earth stations on the 34 commercial ships to which MTN is currently providing service because MTN installed those earth stations on board foreign-registered ships. In addition, we will not increase the number of ships to which it may provide service. Finally, we deny 32 earth station applications filed by MTN to provide fixed-satellite service (FSS) on a primary basis in 17 U.S. seaports.<sup>1</sup> We take these actions because the Commission does not have jurisdiction to license earth stations on foreign vessels.

**II. BACKGROUND**

**A. Waiver**

2. In 1996, the International Bureau (Bureau) and the Office of Engineering Technology (OET) granted MTN's predecessor in interest, Crescomm Transmission Services, Inc. (Crescomm), authority to provide non-conforming satellite services in frequency bands allocated to FSS and terrestrial fixed services,

---

<sup>1</sup> The license applications and seaports are listed in Appendix A. We also dismiss MTN's applications to amend its license applications, listed in Appendix B.

including the 6 GHz portion of the C-band.<sup>2</sup> In doing so, the International Bureau and the Office of Engineering and Technology (Bureau/OET) waived Section 2.106 of the Commission's Rules,<sup>3</sup> the Table of Frequency Allocations, to allow this non-conforming use.<sup>4</sup> The *Crescomm Order* did not grant construction or operating authority because Crescomm had not applied for a Title III license.<sup>5</sup> Instead, Crescomm was requested to file an appropriate radio license application.<sup>6</sup>

3. In the *Crescomm Order*, the Bureau/OET placed additional conditions on Crescomm in granting the waiver, explaining that the 6 GHz band carries "myriad public and private business communications, and cannot tolerate harmful interference from MSS earth stations."<sup>7</sup> First, the Bureau/OET concluded that any authority granted in conjunction with Crescomm's waiver would limit Crescomm to operations on a non-harmful interference basis relative to all parties conforming to the Table of Frequency Allocations.<sup>8</sup> In other words, Crescomm was prohibited from causing harmful interference to any other lawfully operating radio station, and was required to cease operations immediately upon notification of interference. Further, the Bureau/OET required Crescomm to forward complaints of all radio interference to the Commission immediately, in writing. In addition, the Bureau/OET prohibited Crescomm from transmitting in the 6 GHz band within 100 kilometers (km) of land, in order to limit the potential for harmful interference to other lawful operators in the C-band.<sup>9</sup> Finally, Crescomm was directed to work with the National Spectrum Managers Association and other parties to develop interference assessment and prevention standards from MSS in the 6 GHz band.<sup>10</sup>

---

<sup>2</sup> For purposes of this Order, "C-band" denotes the 3700-4200 MHz and 5925-6425 MHz frequency bands. The "6 GHz band" denotes the 5925-6425 MHz frequency band.

<sup>3</sup> 47 C.F.R. § 2.106.

<sup>4</sup> See Mobile Satellite-Based Communications Services by Crescomm Transmission Services, Inc. and Qualcomm Incorporated, Order, RM-7912, 11 FCC Rcd 10944, 10948 (para. 9) (Int'l Bur. and OET, 1996) (*Crescomm Order*). At the time of this Order, MTN had purchased Crescomm, but the Order referred to "Crescomm" for historical consistency. *Crescomm Order*, 11 FCC Rcd at 10944 n.2.

<sup>5</sup> *Crescomm Order*, 11 FCC Rcd at 10949 (para. 12).

<sup>6</sup> *Crescomm Order*, 11 FCC Rcd at 10950 (para. 12).

<sup>7</sup> *Crescomm Order*, 11 FCC Rcd at 10948 (para. 10).

<sup>8</sup> *Crescomm Order*, 11 FCC Rcd at 10948 (para. 10).

<sup>9</sup> *Crescomm Order*, 11 FCC Rcd at 10949 (para. 11). The World Radiocommunication Conference in Istanbul in 2000 (WRC-2000) adopted a resolution "inviting the [International Telecommunication Union, Radiocommunication Bureau (ITU-R)] to study, as a matter of urgency, the regulatory, technical and operational constraints to be applied to (earth station on board vessels (ESV)) operations, . . . and, in particular, to determine the appropriate value for the minimum distance from ESV stations beyond which these stations are assumed not to have the potential to cause unacceptable interference to other services of any administration and beyond which no coordination would be required." WRC-2000, Resolution 82, *resolves* 1. Annex 1 to this Resolution states that "Any transmissions from [earth stations on board vessels (ESVs)] within an agreed distance, as identified in *resolves* 1 of this resolution, shall be based upon the prior agreement of the concerned administration." If any such agreement requires the Commission to revise the 100-km restriction, it will do so.

<sup>10</sup> *Crescomm Order*, 11 FCC Rcd at 10949 (para. 11).

## B. Special Temporary Authority

4. In response to the *Crescomm Order*, MTN filed an STA request to operate earth stations on 45 ships for six months, under the conditions specified in the *Crescomm Order*.<sup>11</sup> MTN represented that it would place its earth stations only on U.S.-flagged vessels.<sup>12</sup> That STA was granted on January 30, 1997, and requests for extension were granted several times subsequently. In addition, in February 1997, MTN was granted an STA to operate its earth stations on board vessels (ESVs) on a non-harmful interference basis when the ships it served were in or near one of four U.S. seaports.<sup>13</sup> The U.S. seaport authority was in addition to MTN's authority to operate its ESVs more than 100 km from land. MTN's operating authority was later expanded further to 17 U.S. seaports.<sup>14</sup> In summary, MTN's STA currently authorizes it to provide satellite service on a non-harmful interference basis for up to 45 ships while those ships are (1) more than 100 km from land, (2) in motion to or from one of 17 U.S. seaports listed in Appendix A to this Order, or (3) moored in one of those 17 U.S. seaports. Furthermore, MTN is authorized to communicate with all U.S.-licensed satellites,<sup>15</sup> INTELSAT, and TDRS.<sup>16</sup>

---

<sup>11</sup> See Letter from Robert G. Allen, Counsel for MTN, to Donald H. Gips, Chief, International Bureau (dated June 28, 1996) (*June 28, 1996 Letter*).

<sup>12</sup> *June 28, 1996 Letter* at 2.

<sup>13</sup> Letter from Steve Sharkey, Chief, Satellite Engineering Branch, Satellite and Radiocommunication Division, International Bureau, to Robert G. Allen, Counsel for MTN (dated Feb. 13, 1997) (*February 13, 1997 Letter*).

<sup>14</sup> Letter from Eliot J. Greenwald, Counsel for MTN, to Steve Sharkey, Chief, Satellite Engineering Branch, Satellite and Radiocommunication Division, International Bureau (dated Aug. 5, 1997). These are the same 17 ports that are the subject of MTN's pending FSS license applications and amendment applications listed in Appendices A and B, respectively.

<sup>15</sup> *February 13, 1997 Letter* at 1. Specifically, MTN was originally granted an STA to communicate with "ALSAT." At that time, "ALSAT" was an abbreviation used in earth station licenses to state that the earth station was authorized to communicate with all U.S.-licensed satellites. MTN requested separate authorization to communicate with PanAmSat satellites and Comstar D-4, even though they are also included in "ALSAT." See *February 13, 1997 Letter* at 1.

Subsequently, the Commission expanded "ALSAT" earth station licenses, so that earth station operators with ALSAT licenses are authorized to communicate with all satellites on the "Permitted Space Station List." The Permitted List includes (1) all U.S.-licensed satellites, and (2) non-U.S.-licensed satellites that have undergone the *DISCO II* analysis, showing in part that they will operate consistently with all applicable Commission requirements. See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, Report and Order, IB Docket No. 96-111, 15 FCC Rcd 7207, 7212 (para. 11) (1999) (*DISCO II First Reconsideration Order*).

The Permitted List expands the number of satellites with which the holder of an "ALSAT" earth station license may communicate, but limits those communications to the fixed-satellite service in the conventional C and Ku-bands. See *DISCO II First Reconsideration Order*, 15 FCC Rcd at 7210 n.19. For three reasons, however, we find that the Commission did not intend the *DISCO II First Reconsideration Order* to expand MTN's STA to communicate with the non-U.S.-licensed satellites on the Permitted List. First, MTN does not have an ALSAT earth station license; it has merely an STA to communicate with U.S.-licensed satellites. There is nothing in the *DISCO II First Reconsideration Order* that expands the scope of STAs. Second, MTN's STA does not authorize it to operate in the fixed-satellite service. Rather, it merely operates a nonconforming satellite service in FSS bands. The Permitted List affects only earth station operators' FSS authority. Third, because MTN uses its ESVs provide

### C. Pending Applications

5. MTN has filed two applications to extend the STA for another six months, and to increase its operating authority from 45 to 150 ESVs.<sup>17</sup> MTN has also filed a separate request for an STA to continue communications between its ESVs and two satellites that have been transferred from the International Telecommunications Satellite Organization (INTELSAT) to New Skies Satellite, N.V. (New Skies).<sup>18</sup>

6. In addition, MTN has filed 32 earth station applications to operate its ESVs as fixed earth stations while the vessels carrying its ESVs are docked and stationary at one of 32 locations.<sup>19</sup> By characterizing this service as FSS, that is, providing satellite service to fixed points, MTN submits that its proposed operations conform to the Table of Frequency Allocations and could be provided on a primary basis.<sup>20</sup> MTN later clarified that ten of its applications were for locations in U.S. Navy ports, and 22 for locations in Commercial ports.<sup>21</sup> Finally, MTN provided additional technical information on its antennas, because they do not comply with the technical requirements of Sections 25.209(a) and (b) of the Commission's rules.<sup>22</sup>

7. Two of MTN's FSS applications were placed on public notice in November 1998, and seven

---

a nonconforming satellite service, they are not "routine" FSS earth stations. There is nothing in the record showing that MTN's ESVs can communicate with current and future non-U.S. satellites on the Permitted List without causing harmful interference to other satellite systems.

<sup>16</sup> The Tracking and Data Relay Satellite System (TDRSS) is owned by the National Aeronautics and Space Administration (NASA). These satellites include C-band capacity, and can be used to provide commercial satellite service. *See* Columbia Communications Corporation, Application for Special Temporary Authority on the NASA TDRS-6 Satellite, Order, 11 FCC Rcd 8639 (Satellite and Radiocommunication Div., 1996).

<sup>17</sup> On January 28, 2000, MTN requested to extend its STA to July 30, 2000. On August 17, 2000, MTN requested to extend its STA to January 30, 2001.

<sup>18</sup> These two satellites are New Skies 513, located at 183° E.L., and New Skies 803, located at 338.5° E.L.

<sup>19</sup> *See* Application File No. SES-LIC-19980911-01273, Form 312, Exh. C, *as amended by* Application File No. SES-LIC-19981204-02004.

<sup>20</sup> "Primary" services can claim protection from harmful interference from secondary services. *See* 47 C.F.R. § 2.105. Further, once coordinated, primary services can also claim protection from harmful interference from any new primary services.

<sup>21</sup> Letter from Helen E. Disenhaus and Eliot J. Greenwald, Counsel for MTN, to Ronald Repasi, Chief, Satellite Engineering Branch, International Bureau, Federal Communications Commission, dated June 6, 2000 (*June 6, 2000 Letter*). MTN also revised its requested points of communication for its dockside applications, from "ALSAT" to Comstar D4 at 76° W.L. for its Naval Port locations, and from "ALSAT" to seven U.S.-licensed satellites and one Mexico-licensed satellite for its Commercial Port locations. *June 6, 2000, Letter*, Statement of Amendment at 2.

<sup>22</sup> 47 C.F.R. § 25.209(a), (b).

parties filed petitions to deny. The remaining 30 applications as amended were placed on public notice in February 1999, and eight parties filed petitions to deny. Among other things, the petitioners claim that MTN mischaracterizes its service as FSS, and that MTN's operations will cause interference to their terrestrial fixed and mobile operations in the C-band.<sup>23</sup>

### III. DISCUSSION

8. For the reasons discussed below, we grant MTN a limited extension of its current STA for the purpose of continuing service to six U.S. Naval vessels, and otherwise deny MTN's STA renewal request. In addition, we require MTN to terminate operation of its ESVs on 34 foreign-flagged commercial ships within five days of the release date of this Order. We dismiss without prejudice MTN's request to expand its authority to a total of 150 ships. MTN is permitted to file a new STA request to the extent that any of those additional ships are U.S.-flagged vessels. We grant MTN's STA request to communicate with New Skies satellites with respect to the six ESVs on naval vessels, and otherwise dismiss this STA request as moot. Finally, we deny MTN's applications for dockside fixed-satellite service.

#### A. Special Temporary Authority for Mobile Operations

##### 1. Foreign Ships

9. Section 306 of the Communications Act states that the Commission does not have authority to license earth stations on ships of foreign registry.<sup>24</sup> MTN recently reported to the Bureau's staff that 34 of the ships on which it is providing service are not registered or "flagged" in the United States.<sup>25</sup> Thus, granting MTN's STA extension request with respect to the 34 foreign ships is outside the scope of the Commission's jurisdiction.<sup>26</sup> Accordingly, MTN's STA extension request is denied with respect to those 34 ships. Under the terms of the original STA, "this authorization is subject to change, in any of its terms, or

---

<sup>23</sup> MTN filed a consolidated opposition to the petitions on March 18, 1999. Four replies were filed on March 30, 1999. All pleadings and the abbreviations by which we refer to the parties are listed in Appendix C. In addition, Puget Sound Energy, Inc. filed an informal objection March 25, 1999, and MTN filed an opposition on April 7, 1999. MTN filed a document styled a "Memorandum" on May 2, 2000. Memorandum from Helen E. Disenhaus and Eliot J. Greenwald, Counsel for MTN, to Ronald Repasi, Chief, and Frank Peace, Jr., Deputy Chief, Satellite Engineering Branch, International Bureau, Federal Communications Commission, dated May 2, 2000 (*May 2, 2000 Memo*). FWCC filed a reply to MTN's *June 6, 2000 Letter*. Letter from Leonard R. Raish and Mitchell Lazarus, Counsel for FWCC, to Ronald Repasi, Chief, Satellite Engineering Branch, International Bureau, Federal Communications Commission, dated June 20, 2000 (*June 20, 2000 Letter*).

<sup>24</sup> 47 U.S.C. § 306.

<sup>25</sup> MTN serves commercial ships registered in the Bahamas, Liberia, the Netherlands, Norway, and Panama. *June 6, 2000 Letter* at 5.

<sup>26</sup> In response to MTN's applications for dockside authority, FWCC questions whether the Commission would be able to enforce any conditions on ships of foreign registry using MTN's service. FWCC March Petition at 10. MTN replies that its remote control center in Holmdel, New Jersey, can cease operations in the event of interference. MTN Opposition at 30-31. See also *May 2, 2000 Memo* at 2; *June 6, 2000 Letter* at 6-7. Because the Communications Act does not permit the Commission to license earth stations on foreign ships, we need not address FWCC's argument.

to cancellation, in its entirety, at any time upon reasonable notice, but without hearing...."<sup>27</sup> We therefore require MTN to terminate satellite service to the 34 foreign ships as soon as practicable, but no later than five days after the release date of this Order. MTN shall inform the Bureau by letter that service to those vessels has been terminated no later than one day after MTN terminates service.

10. We find MTN's argument based on Section 80.1185(b) of the Commission's rules to be irrelevant. Section 80.1185(b) permits operators to place ESVs on ships they do not own.<sup>28</sup> MTN argues that it may therefore place its ESVs on the 34 foreign registered ships.<sup>29</sup> Section 80.1185(b) does not apply here because the Commission does not have authority to license ESVs on foreign ships, regardless of whether MTN owns the ship. Furthermore, when we granted MTN its Part 2 waiver, we classified MTN's service as a mobile satellite service between ships and fixed or temporary-fixed satellite earth stations in the fixed-satellite service.<sup>30</sup> Part 80 applies exclusively to *maritime* mobile satellite service. Because MTN's service does not operate in frequency bands allocated to maritime mobile satellite service, it is not classified as a maritime mobile satellite service in accordance with Part 80. Consequently, the provisions of Part 80 do not apply to MTN's service.

11. MTN is free to seek licenses for its ESVs on foreign-registered ships from the countries in which the ships are registered. If MTN obtained an ESV license from any foreign country, MTN's operations in or near U.S. waters must not cause harmful interference to U.S. licensees providing either space or terrestrial services in the C-band.<sup>31</sup> Furthermore, according to WRC-2000, Resolution 82, starting on January 1, 2002 (the date Resolution 82 enters into force), the Administrations licensing MTN's ESVs on foreign ships should reach an agreement with the United States before MTN may provide any satellite service to one or more of those ships in U.S. coastal regions. Similarly, MTN should reach agreements with other Administrations before operating in their coastal regions. Moreover, the United States and the licensing Administration should reach agreement on how close to U.S. shore those ESVs may operate without prior coordination.<sup>32</sup>

## 2. U.S. Ships

12. In response to MTN's applications for dockside fixed-satellite service, addressed below,

---

<sup>27</sup> February 13, 1997 Letter at 2.

<sup>28</sup> 47 C.F.R. § 80.1185(b).

<sup>29</sup> May 2, 2000 Memo at 1-2. See also June 6, 2000 Letter at 6.

<sup>30</sup> Crescomm Order, 10 FCC Rcd at 10949 (para. 12).

<sup>31</sup> "ESVs may operate in fixed-satellite service networks in the bands 3700-4200 MHz and 5925-6425 MHz under No. S4.4 of the Radio Regulations and *shall not claim protection from, nor cause interference to, other services having allocations in the band.*" WRC-2000, Resolution 82, noting "a" (emphasis added).

<sup>32</sup> The ITU-R will "continue to study, . . . to determine the appropriate value for the minimum distance from ESV stations beyond which these stations are assumed not to have the potential to cause unacceptable interference to stations of other services of any administration and beyond which no coordination would be required." WRC-2000, Resolution 82, *resolves* 1. "Any transmissions from ESVs within an agreed distance, as identified in *resolves* 1 of this resolution, shall be based upon the prior agreement of the concerned administration." WRC-2000, Resolution 82, Annex 1, paragraph 4.

several commenters argue that MTN has not adequately coordinated its *in-motion* operations as required by Section 25.203 of the Commission's rules.<sup>33</sup> We find these arguments misplaced. MTN seeks a renewal of an STA that permits it to operate only on a non-harmful interference basis. As a non-conforming user of frequency bands allocated to the fixed-satellite and fixed-terrestrial services, MTN's in-motion operations have no right to any protection from interference from any conforming operation in the C-band. Further, MTN is required to cease operations immediately in the event of harmful interference to any conforming operation in the C-band. Consequently, regardless of MTN's coordination efforts with conforming users, MTN is authorized to operate on a non-harmful interference basis only. Nonetheless, we encourage MTN and other operators to consult to reach *private* operating arrangements that maximize use of the spectrum by allowing both services to operate.

### 3. Expansion of STA to Additional Ships

13. We dismiss without prejudice MTN's request to expand its STA authority from 45 ships to 150 ships, because of our ruling here that we do not have authority to license earth stations on ships of foreign registry. MTN may re-file this request to the extent that it can show that it will place its ESVs on U.S.-flagged vessels. If MTN can make this showing, we will consider granting MTN an STA to provide service to those vessels under the same conditions that we have placed on MTN's current STA, including the requirement to operate on a non-harmful interference basis.

### 4. Communications with New Skies Satellites

14. New Skies is a Netherlands-based satellite operator that was spun-off from INTELSAT in 1998.<sup>34</sup> MTN was authorized to communicate with two of the satellites transferred from INTELSAT to New Skies, and now seeks an STA to permit its ESVs to continue to communicate with those two satellites.<sup>35</sup> We grant this request with respect to the six ESVs on U.S. Navy Ships, and otherwise dismiss this request as moot. In the *DISCO II Order*, the Commission found that U.S.-licensed earth stations should be permitted to communicate with non-U.S.-licensed space stations, provided that the earth station can show that such communications are in the public interest, under the framework adopted in the *DISCO II* analysis. This framework considers the effect on competition in the United States,<sup>36</sup> spectrum availability,<sup>37</sup> eligibility and operating (*e.g.*, technical) requirements,<sup>38</sup> and national security, law

---

<sup>33</sup> 47 C.F.R. § 25.203. *See, e.g.*, AAR December Petition at 4-5; CDMS December Petition at 4-5; API December Petition at 6; FWCC December Petition 4; APCO December Petition at 3; UTC December Petition at 3-4; Los Angeles March Petition at 2; CDMS March Petition at 4-6; UTC March Petition at 4-5; FWCC March Petition at 4, 8-9; AAR March Petition at 5-6.

<sup>34</sup> For more on the formation of New Skies, see New Skies Satellites, N.V., Order and Authorization, 14 FCC Rcd 13003, 13006-07 (paras. 4-9) (1999) (*New Skies Order*).

<sup>35</sup> These two satellites are New Skies 513, located at 183° E.L., and New Skies 803, located at 338.5° E.L. Application File No. SES-STA-19990120-02064.

<sup>36</sup> Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States, Report and Order, IB Docket No. 96-111, 12 FCC Rcd 24094, 24107-56 (paras. 30-145) (1997) (*DISCO II* or *DISCO II Order*).

<sup>37</sup> *DISCO II*, 12 FCC Rcd at 24157-59 (paras. 146-50).

<sup>38</sup> *DISCO II*, 12 FCC Rcd at 24159-69 (paras. 151-74).

enforcement, foreign policy, and trade concerns.<sup>39</sup>

15. In 1999, the Commission determined that communications with the New Skies satellites at issue here are in the public interest, provided that the appropriate conditions are placed on those communications.<sup>40</sup> In addition, once a non-U.S. satellite has been authorized to access the United States, subsequent earth station operators are permitted to apply for authority to access that satellite by referring to the first grant of authority in its application.<sup>41</sup> Thus, we expand MTN's STA, as conditioned below, to allow it to use its six ESVs on Navy Ships to access the two New Skies satellites.

## 5. Summary

16. In summary, we grant MTN a 180-day extension of its conditional STA with respect to the six U.S. Navy ships it is currently serving, and otherwise deny MTN's STA renewal request. All the conditions currently on MTN's STA will continue to apply. In addition, we deny MTN's request for extension of its conditional STA with respect to the 34 ships of foreign registry to which it now provides service. We require MTN to terminate operation of those ESVs as soon as practicable, but no later than five days after the release date of this Order. We dismiss MTN's request to expand its STA to 150 ships. Finally, we allow MTN to use its six ESVs to communicate with two New Skies satellites subject to the conditions described below. Pursuant to this special temporary authority, MTN may operate six ESVs in the C-band, when those ships are (1) more than 100 km from shore, (2) travelling to or from one of the 17 U.S. seaports listed in the Ordering Clauses of this Order, or (3) docked at one of those seaports. All operations must be on a non-harmful interference basis.

17. We emphasize that, under this STA, MTN has no authority to operate any ESV at any time on any vessel other than the six U.S. Navy vessels authorized in this Order. If MTN attempts to operate any other ESV without obtaining proper authorization, it may be subject to sanctions, including forfeiture liability.<sup>42</sup> Furthermore, if MTN attempts to operate any other ESV on a non-U.S. ship, it should first obtain proper authorization from the foreign administration of the country in which the ship is registered, and the foreign administration and the United States should reach a coordination agreement on the operation of that ESV in or near U.S. waters. If MTN attempts to operate an ESV on a foreign vessel under any other circumstances, and those operations cause harmful interference to U.S. licensees providing either space or terrestrial services in the C-band, MTN may be subject to sanctions, including forfeiture liability.

## B. Dockside Operations

### 1. Introduction

18. We next consider MTN's applications to operate its ESVs on a primary basis when the ships

---

<sup>39</sup> *DISCO II*, 12 FCC Rcd at 24169-72 (paras. 175-82).

<sup>40</sup> *New Skies Order*, 14 FCC Rcd at 13039-41 (paras. 82-94).

<sup>41</sup> *DISCO II*, 12 FCC Rcd at 24176 (para. 192).

<sup>42</sup> See Section 25.102(a) of the Commission's rules, 47 C.F.R. § 25.102(a) (no person shall operate an earth station without authorization).



carrying its earth stations are docked and stationary. MTN asserts, and we agree, that operations from fixed points while the ships are docked are fixed-satellite services. We disagree with MTN, however, that its dockside operations should be considered a *permanent* fixed-satellite service rather than a *temporary* fixed-satellite service. Further, while we might otherwise consider granting MTN authority for ESVs to operate on a temporary-fixed basis, MTN has stated that such a grant would render it "unable to enter into long-term transponder leases, and the cost for transponder space would become so prohibitive that MTN would be unable to provide its services altogether."<sup>43</sup> Consequently, we deny MTN's application to operate ESVs as a permanent fixed-satellite service, without prejudice to refiling if it decides to operate the ESVs on a temporary-fixed basis only.

## 2. Characterization of Service as Fixed or Mobile Satellite Service

19. Several parties maintain that MTN's dockside operations are properly characterized as part of a mobile satellite service.<sup>44</sup> FWCC argues that the Commission's rules do not contemplate treating a service as fixed while a ship is in port, and mobile when the voyage resumes.<sup>45</sup> MTN responds that its dockside service meets the definition of a "fixed satellite service" in the Commission's rules.<sup>46</sup> MTN maintains that its service is a fixed satellite service because each earth station will be operated only at fixed points within specified, defined areas.<sup>47</sup> According to MTN, even though the particular ship will change, each ESV will have the same operating parameters and will operate from one of a number of specified and fixed locations.<sup>48</sup>

20. We agree with MTN. MTN plans to provide satellite service to and from fixed dockside locations. These operations are consistent with the definition of "fixed satellite service" set forth in the Commission's rules.<sup>49</sup> "Fixed satellite service" is defined as "[a] radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any point within specified areas."<sup>50</sup> A "fixed earth station" is defined as "[a]n earth station intended to be used at a specified fixed point."<sup>51</sup> Furthermore, we know of no precedent that precludes MTN from requesting separate authority for the fixed and in-motion segments of its service.

## 3. Characterization of Earth Stations as Permanent or Temporary Fixed Earth Stations

---

<sup>43</sup> MTN Opposition at 12.

<sup>44</sup> CDMS March Petition at 3-4; UTC March Petition at 2-3; AAR March Petition at 3-5, *citing Crescomm Order*, 11 FCC Rcd at 10948 (para. 9).

<sup>45</sup> FWCC December Petition at 1-2; FWCC March Petition at 2; FWCC Reply at 2-3.

<sup>46</sup> MTN Opposition at 4, *citing* 47 C.F.R. § 25.201.

<sup>47</sup> MTN Opposition at 4, 7.

<sup>48</sup> MTN Opposition at 4-5.

<sup>49</sup> 47 C.F.R. § 25.201.

<sup>50</sup> 47 C.F.R. § 25.201.

<sup>51</sup> 47 C.F.R. § 25.201.

21. The Commission's rules provide for two types of fixed earth station licenses. Regular or permanent earth station licenses are designed for earth stations that will remain in operation for more than six months. There are usually no time restrictions on when a fixed earth station may operate. Also, once the earth station has been coordinated with other affected operators in the band to ensure that there is usually no interference, there is no requirement that the earth station licensee re-coordinate its operations during the life of the license. A temporary-fixed earth station is one that is intended to remain at a single location six months or less.<sup>52</sup> In addition, a temporary-fixed earth station operator in the C-band is required to coordinate with potentially affected terrestrial wireless operators before transmitting.<sup>53</sup> Temporary-fixed earth station operators must also cease operations upon notification of harmful interference.<sup>54</sup>

22. MTN plans to operate each of its ESVs as a fixed earth station while the vessel carrying that ESV is docked and stationary at one of the 32 locations listed in Appendix B. FWCC asserts that, if we authorize any MTN dockside service, that service should be treated as a temporary-fixed satellite service rather than a permanent fixed satellite service.<sup>55</sup> API asserts that MTN should have requested temporary-fixed earth station licenses, because permanent Fixed Earth Station authority would be an inefficient use of the spectrum.<sup>56</sup> MTN claims that its service is not a temporary-fixed satellite service, because it intends to offer service for longer than six months.<sup>57</sup> FWCC replies that a temporary-fixed license is more appropriate because none of MTN's earth stations will remain at a single location for more than six months, and that the length of time MTN plans to operate is irrelevant.<sup>58</sup> FWCC argues further that a permanent fixed license would be appropriate only if the ship never leaves the dock.<sup>59</sup>

23. FWCC claims further that granting MTN's applications would foreclose use of the entire 6 GHz band year-round, even though, for example, MTN needs only 80 kHz in Juneau, Alaska, and may need spectrum only for a few days per year.<sup>60</sup> Century contends that granting MTN permanent authority for dockside operations, even though it will use this spectrum only occasionally when a ship is in port, would result in warehousing.<sup>61</sup> MTN claims that it may reduce its frequency demands once the National Spectrum Managers Association has established criteria for coordinating in-motion services. Until then, however, MTN claims that it cannot determine which frequencies can be deleted without precluding

---

<sup>52</sup> 47 C.F.R. § 25.277(a).

<sup>53</sup> 47 C.F.R. § 25.277(c), (d).

<sup>54</sup> 47 C.F.R. § 25.277(e).

<sup>55</sup> FWCC December Petition at 5; FWCC March Petition at 4-5.

<sup>56</sup> API December Petition at 5; API March Petition at 6.

<sup>57</sup> MTN Opposition at 10, *citing* 47 C.F.R. § 25.277(a).

<sup>58</sup> FWCC Reply at 3.

<sup>59</sup> FWCC Reply at 4.

<sup>60</sup> FWCC March Petition at 9. *See also* API March Petition at 6 (granting MTN permanent fixed earth station licenses would be an inefficient use of the spectrum).

<sup>61</sup> Century December Petition at 9.

continuous operations on the same frequencies for both dockside and in-motion operations.<sup>62</sup>

24. We find that MTN's proposed dockside service is a temporary-fixed earth station service rather than a permanent fixed earth station service. Section 25.277(a) of the Commission's rules states that a temporary fixed earth station license is appropriate if the earth station "is to remain at a single location for fewer than 6 months . . . ."<sup>63</sup> MTN has not shown that any ship carrying one of its ESVs will remain at a single location for more than six months.

25. Further, we agree with FWCC that allowing MTN to operate on a permanent fixed basis would result in inefficient spectrum use for two reasons. First, MTN does not plan to use portions of the spectrum for which it seeks authorization.<sup>64</sup> By requesting authority to hold spectrum to the exclusion of others that may be ready to proceed with their business plans, MTN forecloses others from using those frequencies in the 6 GHz band while MTN develops its plans for its future mobile satellite service. Second, MTN plans to use the remaining spectrum only intermittently while the ships carrying its earth stations are at port. As a result, other fixed earth station and terrestrial operators that share the C-band on a co-primary basis would be excluded from using this spectrum in the geographic area around the MTN portside locations.

26. We recognize that MTN has stated that if it does not receive a permanent license it "would be unable to provide its services altogether." Nevertheless, we cannot, on this basis, allow MTN to provide temporary-fixed service under the status of a permanent fixed-satellite service to the detriment of co-primary terrestrial and satellite operators. We therefore deny MTN's FSS applications, without prejudice to refiling if MTN decides to provide its service on a temporary-fixed basis only.

27. MTN may continue to provide service from its dockside locations to the six U.S. Navy ships on a non-harmful interference basis, as it has in the past pursuant to its STA. Under that STA, MTN is required to cease operations immediately upon notification that it is the source of interference, and must notify the Commission of any complaints of harmful interference within five days. Furthermore, we reserve the right to cancel MTN's STA without hearing in the event of interference.

### C. Summary

28. In summary, we grant MTN's request for an extension of its conditional STA with respect to the ESVs on the six U.S. Navy ships it is currently serving, and otherwise deny MTN's request. MTN is authorized to operate these six ESVs on Navy ships for an additional 180 days, when those ships are (1) more than 100 km from shore, (2) travelling to or from one of the 17 U.S. seaports listed below, or (3) docked at one of those seaports. All those operations must be on a non-harmful interference basis. In addition, we require MTN to terminate operation of the ESVs on the 34 ships of foreign registry to which it now provides service. MTN must terminate those operations as soon as practicable, but no later than five days after the release date of this Order. We dismiss MTN's request to expand its STA from 45 to 150 ships. Finally, we deny MTN's requests for authority for fixed-satellite service on a primary basis at the

---

<sup>62</sup> MTN Opposition at 32.

<sup>63</sup> 47 C.F.R. § 25.277(a).

<sup>64</sup> See MTN Opposition at 32.

dockside locations listed in Appendices A and B to this Order.

#### IV. ORDERING CLAUSES

29. Accordingly, IT IS ORDERED that the Requests for Extension of Special Temporary Authority filed by Maritime Telecommunications Network, Inc. on January 28, 2000, and August 17, 2000, ARE GRANTED, with respect to six earth stations on U.S. Naval Vessels operating in the 6 GHz band, and otherwise ARE DENIED. These authorizations SHALL EXPIRE 180 days from the release date of this Order. This authorization is subject to the following conditions:

- (a) Any actions taken as a result of this Special Temporary Authority are solely at Maritime Telecommunications Network, Inc.'s own risk.
- (b) Operations are limited to areas greater than 100 km from shore, and the ports and areas of the following 17 seaports: Bremerton, Washington; Everett, Washington; Ft. Lauderdale, Florida; Juneau, Alaska; Ketchikan, Alaska; Key West, Florida; Los Angeles, California; Mayport Naval Base in Jacksonville, Florida; Miami, Florida; New Orleans, Louisiana; Norfolk, Virginia; Port Canaveral, Florida; San Diego, California; San Juan, Puerto Rico; Skagway, Alaska; St. Thomas, U.S. Virgin Islands; and Tampa, Florida.
- (c) Harmful interference shall not be caused to, and Maritime Telecommunications Network, Inc. is required to accept harmful interference from, any other lawfully operating radio station. Operations shall cease immediately upon notification of such interference, and complaints of all radio interference shall be forwarded immediately to the Commission, in writing.
- (d) Maritime Telecommunications Network, Inc. must comply with all applicable international coordination and operational requirements;
- (e) All transmitting facilities shall comply with Commission guidelines for human exposure to radio frequency electromagnetic fields as defined in 47 C.F.R. §§ 1.1307(b) and 1.1310, including labeling and other appropriate requirements for subscriber transceiver units;
- (f) All antenna towers (masts), where required, shall be marked and lighted in accordance with FCC and FAA regulations; and
- (g) This authorization is subject to change in any of its terms, or to cancellation in its entirety, at any time upon reasonable notice, but without hearing if, in the opinion of the Commission, circumstances should so warrant.

30. IT IS FURTHER ORDERED that the Requests for Expansion of Special Temporary Authority from 45 to 150 earth stations on board vessels, filed by Maritime Telecommunications Network, Inc. on January 28, 2000, and August 17, 2000, ARE DISMISSED without prejudice.

31. IT IS FURTHER ORDERED that Maritime Telecommunications Network, Inc. SHALL TERMINATE service to 34 earth stations on non-U.S. registered vessel as soon as practicable, but no later than five days from the release date of this Order. Maritime Telecommunications Network, Inc. SHALL INFORM the International Bureau by letter no later than one day after it terminates service to these vessels that it has terminated service.

32. IT IS FURTHER ORDERED that the request for Special Temporary Authority to operate its earth stations with New Skies 513, located at 183° E.L., and New Skies 803, located at 338.5° E.L., filed by Maritime Telecommunications Network, Inc. on January 20, 1999, IS GRANTED, with respect to six earth stations on U.S. Navy Ships, and otherwise IS DENIED.

33. Maritime Telecommunications Network, Inc.'s authorization to communicate with New Skies 513, located at 183° E.L., and New Skies 803, located at 338.5° E.L., is subject to the following conditions:

(a) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are permitted to communicate with New Skies 513, located at 183° E.L. (177° W.L.), and New Skies 803, located at 338.5° E.L. (21.5° W.L.) to provide non-conforming mobile-satellite services in the 5925-6425 MHz frequency band in the United States. Provision of direct-to-home services, direct broadcast services, or digital audio radio services are prohibited.

(b) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are permitted to communicate with New Skies 513 and New Skies 803, provided that New Skies Satellites, N.V., files quarterly reports with the Commission regarding the status of (1) its initial public offering (IPO) and associated dilution of INTELSAT's Signatories' ownership; (2) information on New Skies's progress towards novating customer contracts; and (3) information on New Skies's progress towards terminating remaining service agreements between INTELSAT and New Skies. These reports shall include specific information on the IPO, such as (1) selection of an investment bank/underwriter; (2) filing of the registration statement with the Securities and Exchange Commission; (3) completion of financial analysis and due diligence; (4) a copy of the Preliminary Prospectus and the Final Prospectus (when made available to the general public); and (5) information on novation of its customer contracts.

(c) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are granted a waiver of Sections 25.202(g), 25.210(a)(1), 25.210(a)(3), 25.210(c), 25.210(i), 25.210(j)(1), and 25.211(a) of the Commission's rules, 47 C.F.R. §§ 25.202(g), 25.210(a)(1), 25.210(a)(3), 25.210(c), 25.210(i), 25.210(j)(1), 25.211(a), for the limited purpose of communicating with New Skies 513 and New Skies 803, consistent with the conditions set forth in Maritime Telecommunications Network, Inc.'s Special Temporary Authority.

(d) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are permitted to communicate with New Skies 513 and New Skies 803, provided that New Skies Satellites, N.V., remains in compliance with the satellite coordination agreements reached between the United States and INTELSAT regarding New Skies 513 and New Skies 803.

(e) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are permitted to communicate with New Skies 513 and New Skies 803, provided that those communications do not cause harmful interference to, and do not claim protection from, U.S. services provided by U.S.-authorized satellite networks that are compliant with the Commission's two-degree spacing rules.

(f) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are permitted to communicate with New Skies 513 and New Skies 803, provided that those communications do not cause harmful interference to, and do not claim protection from, U.S. services provided by

U.S.-authorized services provided over non-U.S.-authorized satellite networks that are compliant with the Commission's two-degree spacing rules.

(g) Maritime Telecommunications Network, Inc.'s six earth stations on board vessels are required to cease communications with New Skies 513 and New Skies 803 immediately upon notification of harmful interference. Complaints of all radio interference shall be forwarded to the Commission in writing.

34. IT IS FURTHER ORDERED that the Applications for Fixed Earth Station Licenses filed by Maritime Telecommunications Network Inc. on September 11, 1999, and listed in Appendix A, and the Applications for Amendment of those Applications for Fixed Earth Station Licenses filed by Maritime Telecommunications Network, Inc. on December 4, 1999, and listed in Appendix B, ARE DENIED.

35. IT IS FURTHER ORDERED that Maritime Telecommunications Network, Inc. is afforded 30 days from the date of release of this Order and Authorization to decline any authorization granted in this Order as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.

36. This Order is issued pursuant to Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of the release of this Order. (*See* 47 C.F.R. § 1.4(b)(2).)

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson  
Chief, International Bureau

## APPENDIX A

MTN Earth Station Applications**I. Applications for Locations in Naval Facilities**

<u>File Number</u>	<u>Call Sign</u>	<u>Location</u>
SES-LIC-19980911-01272	E980389	Bremerton, WA
SES-LIC-19980911-01273	E980390	Bremerton, WA
SES-LIC-19980911-01274	E980391	Everett, WA
SES-LIC-19980911-01282	E980399	Jacksonville, FL
SES-LIC-19980911-01286	E980403	Norfolk, VA
SES-LIC-19980911-01289	E980404	Norfolk, VA
SES-LIC-19980911-01291	E980405	Norfolk, VA
SES-LIC-19980911-01294	E980408	San Diego, CA
SES-LIC-19980911-01295	E980409	San Diego, CA
SES-LIC-19980911-01296	E980410	San Diego, CA

**II. Applications for Locations in Commercial Seaports**

<u>File Number</u>	<u>Call Sign</u>	<u>Location</u>
SES-LIC-19980911-01275	E980392	Ft. Lauderdale, FL
SES-LIC-19980911-01276	E980393	Ft. Lauderdale, FL
SES-LIC-19980911-01277	E980394	Juneau, AK
SES-LIC-19980911-01278	E980395	Ketchikan, AK
SES-LIC-19980911-01279	E980396	Key West, FL
SES-LIC-19980911-01280	E980397	Los Angeles, CA
SES-LIC-19980911-01281	E980398	Los Angeles, CA
SES-LIC-19980911-01283	E980400	Miami, FL
SES-LIC-19980911-01284	E980401	Miami, FL
SES-LIC-19980911-01285	E980402	New Orleans, LA
SES-LIC-19980911-01292	E980406	Port Canaveral, FL
SES-LIC-19980911-01293	E980407	Port Canaveral, FL
SES-LIC-19980911-01297	E980411	San Juan, PR
SES-LIC-19980911-01299	E980412	San Juan, PR
SES-LIC-19980911-01300	E980413	Skagway, AK
SES-LIC-19980911-01301	E980414	St. Thomas, VI
SES-LIC-19980911-01302	E980415	St. Thomas, VI
SES-LIC-19980911-01303	E980416	Tampa, FL
SES-LIC-19980911-01304	E980417	Tampa, FL
SES-LIC-19980911-01305	E980418	Tampa, FL
SES-LIC-19980911-01306	E980419	St. Thomas, VI
SES-LIC-19981019-01468	E980470	Miami, FL

**APPENDIX B****MTN Amendments filed December 4, 1998****I. Amendments to Applications for Locations in Naval Facilities**

<u>File Number</u>	<u>Call Sign</u>	<u>Location</u>
SES-AMD-19981204-02022	E980399	Jacksonville, FL
SES-AMD-19981204-02023	E980404	Norfolk, VA
SES-AMD-19981204-02024	E980403	Norfolk, VA
SES-AMD-19981204-02028	E980405	Norfolk, VA
SES-AMD-19981204-02030	E980410	San Diego, CA
SES-AMD-19981204-02035	E980408	San Diego, CA
SES-AMD-19981204-02037	E980389	Bremerton, WA
SES-AMD-19981204-02041	E980409	San Diego, CA
SES-AMD-19981204-02168	E980390	Bremerton, WA
SES-AMD-19981204-02169	E980391	Everett, WA

**II. Amendments to Applications for Locations in Commercial Seaports**

<u>File Number</u>	<u>Call Sign</u>	<u>Location</u>
SES-AMD-19981204-01992	E980407	Port Canaveral, FL
SES-AMD-19981204-01993	E980418	Tampa, FL
SES-AMD-19981204-01994	E980416	Tampa, FL
SES-AMD-19981204-01995	E980417	Tampa, FL
SES-AMD-19981204-01996	E980413	Skagway, AK
SES-AMD-19981204-01997	E980419	St. Thomas, VI
SES-AMD-19981204-01998	E980414	St. Thomas, VI
SES-AMD-19981204-01999	E980415	St. Thomas, VI
SES-AMD-19981204-02004	E980402	New Orleans, LA
SES-AMD-19981204-02006	E980470	Miami, FL
SES-AMD-19981204-02008	E980394	Juneau, AK
SES-AMD-19981204-02011	E980411	San Juan, PR
SES-AMD-19981204-02012	E980406	Port Canaveral, FL
SES-AMD-19981204-02014	E980393	Ft. Lauderdale, FL
SES-AMD-19981204-02017	E980392	Ft. Lauderdale, FL
SES-AMD-19981204-02020	E980396	Key West, FL
SES-AMD-19981204-02031	E980412	San Juan, PR
SES-AMD-19981204-02032	E980397	Los Angeles, CA
SES-AMD-19981204-02033	E980400	Miami, FL
SES-AMD-19981204-02034	E980401	Miami, FL
SES-AMD-19981204-02036	E980398	Los Angeles, CA
SES-AMD-19981204-02040	E980395	Ketchikan, AK



**APPENDIX C**

Pleadings

Petitions Filed December 18, 1998:

Association of American Railroads (AAR)  
American Petroleum Institute (API)  
Association of Public-Safety Communications Officials-International, Inc. (APCO)  
Century Telephone of Washington, Inc. (Century)  
Consortium Digital Microwave System (CMD5)  
Fixed-Wireless Communications Coalition (FWCC)  
UTC, The Telecommunications Association (UTC)

Petitions Filed March 5, 1999:

AAR  
API  
APCO  
CMD5  
County of Los Angeles, California (Los Angeles)  
FWCC  
UTC  
WJG MariTEL Corporation (MariTEL)

Consolidated Opposition Filed March 18, 1999

MTN

Replies filed March 30, 1999

AAR  
API  
CDMS  
FWCC